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November 14, 2005

The Honorable Kathryn H. Porter, Mayor
City of Takoma Park, Maryland
7500 Maple Avenue
Takoma Park, MD 20912

The Honorable Joy Austin-Lane,
Councilmember Ward 1
City of Takoma Park, Maryland
7500 Maple Avenue
Takoma Park, MD 20912

Dear Mayor Porter and Councilmember Austin-Lane:

In your letter of October 18, 2005, you posed a series of questions regarding the WMATA Compact Public Hearing process and the Joint Development Sales Agreement with Takoma Metro Associates Limited Partnership. Here are our responses.

COMPACT PUBLIC HEARING

QUESTION: How is the WMATA Compact Public Hearing conducted? Do the WMATA Board Members conduct a hearing where they listen to testimony? If so, how many members need to be present for a quorum?

ANSWER: I have enclosed a copy of the Washington Metropolitan Area Transit Authority Compact. Sections 13, 14 and 15 address public hearing procedures. I have also enclosed a document entitled "WMATA Compact Public Hearing Process and Staffing Requirements." The hearing requires one presiding officer who is usually a Board member. Other Board members are not required to attend. The presiding officer will open the meeting and make an introductory statement. A WMATA staff member will present a short summary of the history of the project. Then the developer will make a presentation of the plan for the WMATA replacement facilities which are the subject of the hearing. The public is then invited to give testimony. The hearing record stays open for 10 days after the hearing to allow for additional comments. The public testimony is then incorporated into a draft staff report which is sent to those who spoke at the hearing or who have requested a copy. Comments on the draft staff report will

Washington
Metropolitan Area
Transit Authority

600 Fifth Street, NW
Washington, DC 20001
202/962-1234

By Metrorail:
Judiciary Square—Red Line
Gallery Place-Chinatown—
Red, Green and
Yellow Lines
By Metrobus:
Routes D1, D3, D6, P6,
70, 71, 80, X2

A District of Columbia,
Maryland and Virginia
Transit Partnership

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be accepted for 2 weeks after its release. Staff will then prepare the final report, incorporating recommendations and comments received for Board approval. The Board will consider the evidence submitted and the comments made at the hearing, as summarized in the staff report and any comments thereto received from the public and, as necessary, the transcription of the public hearing.

QUESTION: What are the written regulations which govern Compact Hearings? Please provide us with a copy of these regulations.

ANSWER: Please review Sections 13, 14 and 15 of the Washington Metropolitan Area Transit Authority Compact and the document entitled "WMATA Compact Public Hearing Process and Staffing Requirements."

QUESTION: What is the schedule for these hearings? How long does the record stay open?

ANSWER: The Compact Public Hearing on the WMATA replacement facilities for the Takoma joint development project, scheduled for November 2, 2005, was postponed. You will be notified of the new hearing date, time and location and we will comply with the 30-day notice requirement. The record remains open for 10 days after the hearing date; there is an additional opportunity for notice and comment upon the staff report.

QUESTION: How many Compact Hearings are to be scheduled on the Takoma Metro site development issue? Where will they be held?

Only one WMATA Compact Public Hearing need be held. The location of the postponed hearing has not been identified, although WMATA intends to hold the hearing in the District of Columbia, close to the station.

QUESTION: Are transportation/transit issues the only ones addressed at the hearing, or does the Board accept testimony regarding other issues such as land use, density and circulation?

ANSWER: Pursuant to the WMATA Compact, the scope of the hearing only relates to changes to the mass transit plan, particularly as it relates to transit facilities.

QUESTION: May the Board keep the record open until after the BZA and HPRB hearings have been conducted?

ANSWER: The record will be closed 10 days after the hearing date. Comments on the draft staff report will be accepted for 2 weeks after the report is released for public review. The Board, in considering the staff report, public comments and other evidence, has significant discretion as to how to proceed.

QUESTION: What role does the WMATA staff play in these hearings and what role does the potential developer play?

ANSWER: Please see the answer to the first question.

QUESTION: When does the Board make its decision on the issues raised and how are these decisions communicated?

ANSWER: After issuance of the final staff report and public review and comment on that report, the Board, first through its Real Estate Committee and then the full Board, will vote in public session on the proposed changes to the mass transit plan.

JOINT DEVELOPMENT SALES AGREEMENT

QUESTION: Section 3.01(2): If the developer installs metered parking spaces along the Main Road, who enforces these meters?

ANSWER: On a public street, the District's Metropolitan Police Department and Parking Enforcement employees will be responsible for enforcement.

QUESTION: Section 3.02: Vertical and Horizontal Support required for the protection of the WMATA replacement facilities. Who will remove the current earthen berm supporting the WMATA and CSX tracks, and who will construct the replacement concrete wall? How will the tracks be stabilized during this transition. Please provide an estimate of the length of this proposed wall and its estimated cost.

ANSWER: Under the current concept plan, the earthen berm will not be

disturbed. The concrete retaining wall will be constructed by the developer's contractor, using plans reviewed and previously approved by WMATA and subject to WMATA's inspection rights under the Sales Agreement. The exact length of the retaining wall will be determined as fully engineered plans are developed and the cost will be determined by competitive bids based on the final plans.

QUESTION: Section 4.02B: Environmental Test Results. Please provide the City of Takoma Park a copy of the January 21, 2003 Phase II environmental Site Assessment prepared for the developer by ECS, Ltd.

ANSWER: The report is enclosed.

QUESTION: Section 4.02D Concept Plan. Has the developer identified any components of its site plan as "final"? If so, what are they?

ANSWER: No.

QUESTION: Section 9.03: Closing Costs. Is the developer exempt from property transfer tax to be paid to the District?

ANSWER: No.

QUESTION: Section 13.01: Insurance Coverage. (A) considering the magnitude of the proposed construction of the principal support wall during a period of public use, why does WMATA consider a \$5 million insurance limit sufficient for general liability?

ANSWER: The \$5 million insurance limit for general liability is considered by our insurance office to be commercially reasonable.

QUESTION: Section 13.01: Insurance Coverage (B). Given the consideration above, why is "Builder's Risk" Insurance intentionally deleted?

ANSWER: Builder's Risk insurance covers the developer's improvements. The

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developer determines whether it will carry this insurance and the amount of coverage, not WMATA.

We hope that we have addressed the issues you raised adequately. If you have any additional questions, please contact me at (202) 962-1504 or Elisa Hill at (202) 962-1593.

Sincerely,



Gary Malasky
Managing Director
Office of Property Development
and Management

Enclosures: 3

cc (w/o enclosures):

Gladys Mack, Vice Chairman, WMATA Board of Directors
The Honorable Jim Graham, Member, Council of the District of Columbia,
and Member, WMATA Board of Directors
The Honorable Marion Barry, Member, Council of the District of
Columbia, and Member, WMATA Board of Directors
Dan Tangherlini, Director, District of Columbia Department of
Transportation and Member, WMATA Board of Directors
The Honorable Adrian Fenty, Member, Council of the District of Columbia
Ellen McCarthy, Director, District of Columbia Office of Planning
Elliot Domes, Legislative Assistant, Office of Congresswoman Eleanor
Holmes Norton
Faith E. Wheeler, Commissioner, ANC 4B02
Doug Payton, Commissioner, ANC 4B01